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exercised their powers and performed their functions as agents of the central government." The issuing of municipal bonds was held to be a governmental function, and such bonds to be exempt from taxation by the States. As to the contention that the situation was changed by the admission of Oklahoma as a State, the Court said: "Presumably the municipal credit was enhanced and the terms of the municipal borrowing rendered more favorable by the understanding that the bonds, being obligations of an agency of the Federal Government, would be exempt from taxation by the several States. To deprive bonds (of territorial municipalities) of their immunity from state taxation, and this because of the subsequent action of Congress in erecting the territories into a State, with or without an assumption by the new State of the obligations of the federal agency, would be in effect to impair the obligation of the contract: and this is so inconsistent with the honor and dignity of the United States that such an intent should not be presumed without the clearest language requiring it."

W. C. J.

CONSTITUTIONAL LAW: LIMITATION OF THE FOURTEENTH AMENDMENT ON THE EMINENT DOMAIN POWER OF THE STATES.—It is well settled that, under the due process clause of the Fourteenth Amendment, private property can be taken under the power of eminent domain for a public purpose only.¹ And the exercise of the power of eminent domain has usually been limited to takings for a public service enterprise which serves the public so directly that it would be subject to such incidents as public supervision and regulation of rates. But in a recent case, *State ex rel. Mountain Timber Co. v. Superior Court*,² the doctrine was extended to authorize a taking by a private individual, for his own exclusive private use in an enterprise which could be said to serve the public only in that it was engaged in developing the natural resources of the state.

The Constitution of Washington provides³ that "private property shall not be taken for private use, except for private ways of necessity" etc. By the statutes of Washington⁴ land may be condemned by any person for a private way of necessity for the transportation of timber etc. after due notice and hearing and the payment of a just compensation. The Mountain Timber Company, a private corporation was allowed to condemn a private right of way across private land for the purpose of constructing an outlet for a part of its timber lands, otherwise inaccessible. The ground of the decision was that the benefit to accrue to the public in the development of the timber resources of the state was of such importance in

¹ *Fallbrook Irr. Dist. v. Bradley*, (1896) 164 U. S. 112, 158; *Lewis, Eminent Domain*, (3d ed.) sec. 315.

² (1914) 137 Pac. 994.

³ Art. I, sec. 6.

⁴ Laws, 1913, p. 412.

the promotion of the general welfare that the condemnation could be considered to be for a public purpose.

The doctrine is supported by the United States Supreme Court that the development of the great natural resources of the state may, under a particular state of facts, be sufficient to justify an exercise of the power of eminent domain by a state.⁵ Thus, land has been condemned for a right of way for a railroad, to facilitate the working of mines,⁶ for an irrigation ditch for the reclamation of arid lands,⁷ and for the development of water power for manufacturing purposes.⁸ The basis of the doctrine is that a private enterprise may, because of peculiar local conditions, be devoted to the public benefit so that the property may be considered to be taken for the public use through the private use.⁹ In most of the cases in which this extension is allowed, the land so taken does not become the private property of the individual condemning it, from the use of which the public is excluded but any one so situated as to be able to use it for the purpose for which it was condemned is allowed to do so. The only case supported by the United States Supreme Court which allows a condemnation for the exclusive private use of the individual as does the principal case is that of *Head v. Amoskeag Manufacturing Co.*,¹⁰ which rested upon the mill acts of New Hampshire. And, in this case, the court expressly bases its decision not on the power of eminent domain, but on the power to regulate the duties of adjoining proprietors to each other regarding the enjoyment and partition of the joint estate.

H. C. K.

CONSTITUTIONAL LAW: PARTIAL INVALIDITY OF STATUTES: POWER OF LEGISLATURE TO ALTER GENERAL RULES OF CONSTRUCTION.—One of the well established and unquestionably sound rules laid down by the courts in the exercise of their great function to declare legislative enactments repugnant to the constitution and void is that the unconstitutionality of part of a statute shall not destroy the validity of the whole, unless "all the provisions are so connected in subject matter, depending on each other, operating together for the same purpose or otherwise so connected together in meaning, that it cannot be presumed the legislature would have passed the one without the other."¹¹ But, notwithstanding this doctrine, a significant provision has been inserted in certain important acts of the 1913 Legislature, such as the statutes regarding Workmen's Compensation, Inheritance Taxes, Primary Elections,

⁵ *Clark v. Nash*, (1904) 198 U. S. 361, affirming *Nash v. Clark*, (1904) 27 Utah 158, 75 Pac. 371; *Lewis*, sec. 315.

⁶ *Strickley v. Highland Boy Gold Mining Co.*, (1905) 200 U. S. 527.

⁷ *Clark v. Nash*, *supra*.

⁸ *Head v. Amoskeag Manufacturing Co.*, (1884) 113 U. S. 9.

⁹ *Wiel, Water Rights*, (3d ed.) secs. 607-611.

¹⁰ (1884) 113 U. S. 9.

¹¹ *Cooley's Constitutional Limitations*, 7th ed. p. 246.